

CUSTOMER NO.: 020991

MAR 05 2007

PATENT

Docket No. PD-201030A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Erin H. Sibley, et al.

Date: March 5, 2007

Serial No.: 09/844,920

Group Art Unit: 2618

Filed: April 26, 2001

For: COMMUNICATION SYSTEM FOR REBROADCASTING  
ELECTRONIC CONTENT WITHIN LOCAL AREA NETWORK

Examiner: Thuan T. Nguyen

APPEAL BRIEF  
TRANSMITTAL LETTER

Mail Stop Appeal Briefs – Patents  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

Enclosed is the Appeal Brief for the above-identified patent application.

Applicant petitions for an extension of time for \_\_\_\_\_ months(s). If an additional extension of time is required, please consider this a petition therefor.

Fee \$ \_\_\_\_\_

An extension for \_\_\_\_\_ months(s) has already been secured; the fee paid therefor of \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

\$ \_\_\_\_\_

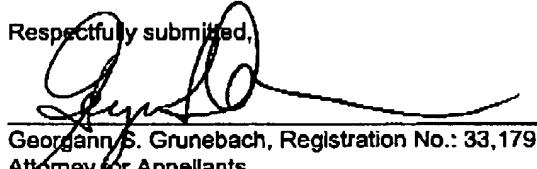
Extension fee due with this request \$ \_\_\_\_\_

Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

The Appeal Brief Fee of \$ 500.00 is due.

The total fee due is \$500.00. Please charge this amount to Deposit Account No. 50-0383 of The DIRECTV Group, Inc. If any additional appeal brief fee or extension fee is required, please charge to Deposit Account No. 50-0383.

Respectfully submitted,

  
 Georgann S. Grunebach, Registration No.: 33,179  
 Attorney for Appellants
CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to (571) 273-8300 (PTO Centralized Facsimile Number), and addressed to Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 5, 2007, by Georgann S. Grunebach, Registration No. 33,179.

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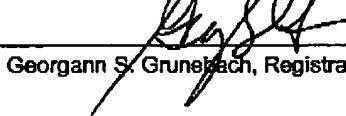
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 By: Georgann S. Grunebach (Name of Registered Representative).


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March 5, 2007 (Date of Signature)

Customer Number 020991

*Patent*  
**PD-201030A**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

## In Re Application of:

Erin H. Sibley, et al.

Serial No. 09/844,920 Group Art Unit: 2685

Filed: April 26, 2001 Examiner: Thuan T. Nguyen

For: COMMUNICATION SYSTEM FOR REBROADCASTING ELECTRONIC CONTENT WITHIN LOCAL AREA NETWORK

**BRIEF ON APPEAL**

Mail Stop Appeal Brief - Patents  
 Commissioner for Patents  
 P. O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

The following Appeal Brief is submitted concurrently with a Notice of Appeal dated March 5, 2007.

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**I. Real Party in Interest**

The real party in interest in this matter is The DIRECTV Group, Inc of El Segundo, California which is 34 percent owned by Fox Entertainment Group, which is approximately 82 percent owned by The News Corporation, Limited.

**II. Related Appeals and Interferences**

There are no other known appeals or interferences which will directly affect or be directly affected by or have bearing on the Board's decision in the pending appeal.

**III. Status of the Claims**

Claims 1-19 stand rejected in the Final Office Action.

**IV. Status of Amendments**

There have been no amendments filed subsequent to the response to the Final Office Action of January 3, 2007.

**V. Summary of Claimed Subject Matter**

Claim 1 is directed to a system of distributing electronic content that includes a network operations center 12, a communication backbone 14 that is coupled to the network operations center 12, and a base station 16. The base station 16 receives the broadcast signal from the communication backbone 14 and forms a wireless local area network. The base station 16 rebroadcasts a portion of the broadcast signal as a rebroadcast signal using the wireless local area network. A user appliance 18 is positioned within the wireless local area network and receives the rebroadcast signal. The elements of claim 1 are illustrated in Figure 1 and described in paragraphs 15 and 16 generally. More detailed discussion of the devices is set forth on page 4, lines 6-18. Claim 1 also includes the user appliance 18 having conditional access software therein. The conditional access software 92 allows the user appliance to access the rebroadcast signal. The conditional access software 92 is illustrated in Figure 2 and is described on page 7, lines 1-6.

Claim 2 sets forth that a television 78 is coupled to the base station 16 and receives a portion of the rebroadcast signal (page 7, lines 15-19).

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Claim 3 recites that the base station forms the rebroadcast signal from digital electronic content (page 7, lines 9-23).

Claim 4 recites that the electronic content comprises digital audio signals (page 4, lines 1-5).

Claim 5 recites that the electronic content comprises video (page 4, lines 1-5).

Claim 6 recites that backbone 14 comprises a high altitude device, cable or fiber optic. High altitude distribution device is set forth as 14A, television cable as 14B, and fiber optics as 14C in Figure 1 (page 4, lines 11-18).

Claim 7 recites that the high altitude device comprises a satellite 14A. Claim 8 recites that the high altitude device comprises a stratospheric platform which is also generally set forth as reference numeral 14A (page 4, lines 11-18).

Claim 9 recites that the base station comprises an integrated receiver decoder (page 6, line 5).

Claim 10 recites that the rebroadcast signal is a compressed signal. Compression software 80 is set forth in paragraph 19 and is described on page 6, lines 12-16.

Claim 11 recites that the backbone comprises a cable network (page 4, lines 11-18).

Claim 12 recites that the backbone comprises a fiber optic network (page 4, lines 11-18).

Claim 13 is illustrated in Figures 1 and 2 and is described on page 4, lines 6-18. Claim 13 recites the steps of coupling television electronic content to a redistribution device such as set top box 16; over-the-air broadcasting the television electronic content from the redistribution device; and receiving the television electronic content through a user appliance 18. Claim 13 also includes the user appliance having conditional access software therein. The conditional access software 92 allows the user appliance to access the rebroadcast signal (page 7, lines 1-6).

Claim 14 recites that the over-the-air broadcasting comprises over-the-air broadcasting from the base station (page 4, lines 15-16).

Claim 15 recites that the over-the-air broadcasting system forms a local area network with the user appliance. A local area network interface 84 is illustrated in Figure 2 (page 4, lines 15-16).

Claim 16 is an independent claim and is directed to broadcasting a television signal as an electronic content, receiving the electronic content at the base station, digitally compressing the electronic content into a compressed signal at the base station and over-the-air rebroadcasting the

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compressed signal using a wireless local area network. These steps are described on page 7, lines 7-14. Compression software 80 is set forth in paragraph 19 and in Figure 2 and is described on page 6, lines 12-16. Claim 16 also includes the user appliance having conditional access software therein. The conditional access software allows the user appliance to access the rebroadcast signal (page 7, lines 1-6).

Claim 17 recites the step of receiving the compressed signal at a user appliance 18 (page 7, lines 1-6).

Claim 18 recites that the step of receiving comprises the step of digitally decompressing the digital video stream and displaying the video stream (page 7, lines 1-6).

Claim 19 is an independent claim illustrated in Figure 2 and is directed to a base station 16 that includes a receiving antenna 40 that receives electronic content, compression software 80 for compressing the electronic content into a compressed signal within the base station (conditional access software 80 accessing the electronic content), a transmitting area network antenna 62, and a wireless local network interface 84 coupled to the transmitting area network antenna and wirelessly broadcasting the compressed signal through the transmitting area network as a compressed wireless rebroadcast signal (page 6, lines 1-16).

## **VI. Grounds of Rejection to be Reviewed on Appeal**

The following issues are presented in this appeal:

Whether Claim 19 is anticipated under 35 U.S.C. §102(e) over *Herring* (U.S. Pat. No. 6,958,987).

Whether Claims 1-18 are obvious under 35 U.S.C. §103(a) as over *Fuller* (U.S. Pat. No. 5,729,297) in view of *Herring*.

## **VII. Argument**

### **The Rejection of Claim 19 under 35 U.S.C. §102(e) over *Herring* (6,958,987)**

#### *Claim 19*

Claim 19 has been amended to include conditional access software. Appellants respectfully submit that conditional access software is not taught or suggested by *Herring*. The columns and lines pointed to by the Examiner, in particular, column 5, lines 20-49, describe compression, but do not describe conditional access software. The Examiner states that the

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*Herring* reference teaches both conditional accessing and compression. The Examiner states that “the features of retransmission, error checking, modulation/demodulation, adaptive filtering and encoding/decoding – which referred to ‘condition accessing’ the content ...” – is performed at the base station. On page 10 of the final Office Action, the Examiner states “The Examiner believes compression/decompression can either be a part of ‘conditional access’ or a separate process as well; and the examiner clarifies on this issue that the term ‘conditional access/conditional accessing’ simply referred to the enabling the use of the signals (as applicant admits). Therefore, anything related to the modification/adjusting to the condition of the content signals – meaning providing ‘condition accessing’ – for improving the performance of the signal for a specific use.” The Appellants strongly disagree with the Examiner’s position. Claim 19 recites both conditional access software and compression software. Conditional access software allows access to content based on certain conditions such as the user being a current subscriber. Appellants respectfully submit that compression software is different than conditional access software. Of course, conditional access software, if the conditions are met, allows access to the signals. However, the access is granted based upon the conditions. Conditional access cards are used in current DIRECTV-type systems. A conditional access card is provided in a set top box to allow access to the signals based upon conditions. The conditional access is denied if the user is no longer a subscriber to the system. What is different in claim 1 is that the base station forms a local area network that includes compression software and conditional access software. Appellants respectfully submit that each and every element of claim 19 is not found in the *Herring* reference and, therefore, the Examiner’s rejections do not meet the requirements of Section 102(e). Therefore, because each and every element of claim 19 is not found in the *Herring* reference, Appellants respectfully request the Board to reverse the Examiner’s rejection.

**The Rejection of Claims 1-18 under 35 U.S.C. §103(a) over *Fuller* (5,729,297)  
in view of *Herring***

*Claim 1*

Claim 1 is directed to a system of distributing electronic content that includes a network operations center generating a broadcast signal having digital electronic content, a communication backbone coupled to the network operations center, and a base station receiving the broadcast signal from the backbone and forming a wireless local area network. The base station over-the-air broadcasts at least a portion of the broadcast signal as a rebroadcast signal

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using the wireless local area network. A user appliance is also included in the system within the wireless local area network and receives the rebroadcast signal. The user appliance has conditional access software therein. The conditional access software allows the user appliance to access the rebroadcast signal.

The *Fuller* system teaches the video distribution system suitable for use in a hotel. The *Fuller* system receives information from a satellite 106 at downlink facility 108. The hospitality system 108 distributes the system to various rooms within the hotel. The Examiner points to the satellite links as a means for over-the-air coupling or broadcasting to redistribution device 108, 110 and 112. The *Fuller* reference does not teach or suggest the use of over-the-air broadcasting using the network 204. The network 204 is not taught or suggested to be a wireless system. Appellants believe that the system is a wired system that uses microwaves or RF that are broadcast through the wires or optical fibers that exist within the hotel. It should be noted that cable television systems typically use high frequency (L-band) to transmit signals within wires. This is one reason cable television uses coaxial shielded cables.

The Examiner does agree that the *Fuller* reference does not teach a wireless local area network and conditional access. The Examiner cites the *Herring* reference for those teachings. On page 4 of the final Office Action dated January 3, 2007, the Examiner states, "Herring teaches the same technique as Herring discloses a base station with an antenna for receiving and transmitting electronic content and a compression software as conditional access software for compressing the electronic content into a compressed signal within the base station." The Examiner then refers the Appellants to Figures 2 and 3, the base station 102, column 4, lines 47-56 and column 5, lines 20-49. Appellants do admit that the *Herring* reference does teach that the base station may manifest itself as an advanced set top box. Also, a personal access device is wirelessly coupled to the base station. However, the base station is best described in the passage in column 5. Appellants agree that compression and decompression functions are set forth. However, compression and decompression are different than providing conditional access. As can be seen in the present invention, conditional access and compression are two separate functions. It appears that the Examiner is trying to equate compression software with conditional access software. As mentioned above, these are two completely separate functions. Compression software merely reduces the size of the transmitted signal, wherein conditional access enables the use of the signals. Appellants respectfully submit that there is no teaching or

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suggestion for conditional access in the *Herring* system. Compression and conditional access are not the same.

Therefore, even when the references are combined, no teaching or suggestion is provided for a user appliance positioned within a wireless local area network that receives a rebroadcast signal from a base station wherein the user appliance has conditional access software therein to allow the user appliance to access the rebroadcast signal. Appellants, therefore, respectfully request the Board to reverse the Examiner's position with respect to claim 1.

*Claims 2-7*

Claims 2-7 stand or fall together with claim 1.

*Claim 8*

Claim 8 recites that the high altitude device comprises a stratospheric platform. On page 6 of the final Office Action, the Examiner states that the *Fuller* reference inherently discloses a stratospheric platform. However, a stratospheric platform is different than a satellite. Stratospheric platform flies in the stratosphere of the earth wherein a satellite flies outside the stratosphere of the earth (hundreds of miles above the earth). A stratospheric platform may fly, for example, at around 60,000 feet. There is no teaching or suggestion in *Fuller* for a stratospheric platform.

*Claims 9-12*

Claims 9-12 stand or fall together with claim 1.

*Claim 13*

Claim 13 recites the step of coupling television electronic content to a redistribution device; over-the-air broadcasting the television electronic content from the redistribution device; and receiving the television electronic content through a user appliance.

The final step of Claim 13 recites receiving the over-the-air electronic content through a user appliance having conditional access software therein, said conditional access software allowing the user appliance to access the rebroadcast signal. As mentioned above, Appellants respectfully submit that there is no teaching or suggestion in *Fuller* for conditional access allowing the user appliance to access the rebroadcast signal. Appellants, therefore, respectfully request the Board to reverse claim 13 as well.

*Claim 14*

Claim 14 stands or falls together with claim 13.

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***Claim 15***

Claim 15 specifically recites that over-the-air broadcasting forms a local area network with the user appliance. Appellants respectfully submit that the *Fuller* reference does not set forth a local area network, particularly in combination with the recitations of claim 13. Therefore, claim 15 is believed to be allowable for the same reasons set forth above.

***Claim 16***

Claim 16 recites a method of distributing electronic content using a compressed signal at a base station and over-the-air rebroadcasting the compressed signal using the wireless local area network. Claim 16 also recites allowing conditional access at a user device through a conditional access software in the user device. These claims have similarities to claim 1 with respect to the rebroadcasting and the conditional access software. Therefore, these claims are also believed to be allowable for the same reasons set forth above with respect to claim 1. Appellants, therefore, respectfully request the Board to reverse the Examiner's position with respect to claim 16.

***Claims 17-18***

Claims 17 and 18 stand or fall together with claim 16.

**VIII. Claims Appendix**

A copy of each of the claims involved in this appeal, namely claims 1-19, is attached as a Claims Appendix.

**IX. Evidence Appendix**

None.

**X. Related Proceedings Appendix**

None.

**XI. Conclusion**

For the foregoing reasons, Appellants respectfully request that the Board direct the Examiner in charge of this examination to withdraw the rejections.

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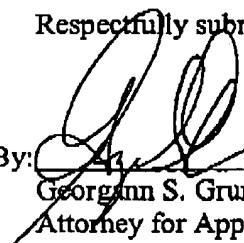
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Please charge any fees required in the filing of this appeal to Deposit Account 50-0383.

Respectfully submitted,

By:

  
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Dated: March 5, 2007

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**CLAIMS APPENDIX**

1. A system of distributing electronic content comprising:
  - a network operations center generating a broadcast signal having digital electronic content;
  - a communication backbone coupled to said network operations center;
  - a base station receiving said broadcast signal from said backbone and forming a wireless local area network, said base station over-the-air rebroadcasting at least a portion of said broadcast signal as a rebroadcast signal using said wireless local area network; and
  - a user appliance positioned with said wireless local area network and receiving said rebroadcast signal said user appliance having conditional access software therein, said conditional access software allowing the user appliance to access the rebroadcast signal.
2. A system as recited in claim 1 further comprising a television coupled to said base station, said television receiving at least a portion of said rebroadcast television signal.
3. A system as recited in claim 1 wherein said base station forms said rebroadcast signal from said digital electronic content.
4. A system as recited in claim 1 wherein said electronic content comprises digital audio signals.
5. A system as recited in claim 1 wherein said electronic content comprises video.

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6. A system as recited in claim 1 wherein said backbone comprises a high altitude device, cable or fiber optic cable.

7. A system as recited in claim 6 wherein said high altitude device comprises a satellite.

8. A system as recited in claim 6 wherein said high altitude device comprises a stratospheric platform,

9. A system as recited in claim 1 wherein said base station comprises an integrated receiver decoder.

10. A system as recited in claim 1 wherein said rebroadcast signal is compressed at the base station into a compressed signal.

11. A system as recited in claim 1 wherein said backbone comprises a cable network.

12. A system as recited in claim 1 wherein said backbone comprises a fiber optic network.

13. A method of distributing electronic content comprising the steps of:  
coupling electronic content to a redistribution device;  
receiving the electronic content from the redistribution device;

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over-the-air broadcasting at least a portion of the electronic content from the redistribution device; and

receiving the over-the-air electronic content through a user appliance having conditional access software therein, said conditional access software allowing the user appliance to access the rebroadcast signal.

14. A method as recited in claim 13 wherein the step of over-the-air broadcasting comprises over-the-air broadcasting from a base station.

15. A method as recited in claim 13 wherein the step of over-the-air broadcasting comprises forming a local area network with the user appliance.

16. A method of distributing electronic content comprising the steps of:  
broadcasting a television signal as electronic content;  
receiving the electronic content at a base station;  
digitally compressing the electronic content into a compressed signal at the base station;  
over-the-air rebroadcasting the compressed signal using a wireless local area network;  
allowing conditional access at a user device through conditional access software in the user device.

17. A method as recited in claim 16 further comprising the steps of receiving the compressed signal at a user appliance.

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18. A method as recited in claim 16 wherein the step of receiving comprises the steps of digitally decompressing the digital video stream, and displaying the video stream.

19. A base station comprising:

a receiving antenna for receiving electronic content;

compression software for compressing the electronic content into a compressed signal within the base station;

conditional access software accessing the electronic content;

a transmitting local area network antenna; and

a wireless local area network interface coupled to the transmitting local area network antenna and wirelessly broadcasting the compressed signal through the local area network antenna as a compressed wireless rebroadcast signal.

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**IX. Evidence Appendix**

None.

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**X. Related Proceedings Appendix**

None.